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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,685	03/03/2005	Alfred Schaffner	ERT 204	5297

7590

10/31/2006

Horst M Kasper
13 Forest Drive
Warren, NJ 07059

EXAMINER

STOKES, CANDICE CAPRI

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/526,685	Applicant(s) SCHAFFNER, ALFRED	
	Examiner Candice C. Stokes	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/02/05 & 12/05/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The Preliminary Amendment filed 03/03/05 is hereby acknowledged.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: the circular opening 8 is not shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because it is too long, it should be 150 words or less. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 1-3 and 7 are objected to because of the following informalities: in claim 1, line 12 and in claim 2, line 2 “the spindle” should be “the inner body”; in claim 3, line 1 “charaterixed” should be “characterized”; in claim 7, line 2, “retaineris” should be “retainer is”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitations "the crown wheel" and “the spindle” in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Weissenfluh et al (USPN 5,626,475). Von Weissenfluh et al discloses a dental matrix retainer

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used as an aid when filling two- surface cavities in the molars, with a matrix holder (1) and a device for tensioning a matrix band placed in the form of a loop around the tooth which is to be treated, the matrix holder (1) being composed of a housing (6) with a circular opening (through which spindle 7 is received), and of a spindle-like inner body (7) which can turn in this opening and which is provided with a gap (7b), said gap (7b) being able to be aligned with a slit (6b) in the wall of the housing (6) such that the superposed ends of the matrix can be inserted into this slit (6b) and into the gap (7b) aligned therewith and can be tensioned on the tooth by turning the inner body (7), characterized in that a toothed wheel (7c) is provided on the upper end of the spindle (7) protruding from the circular opening of the housing (6), said toothed wheel (7c) being able to be engaged with a drive device (2) which has a laterally outwardly extended drive shaft (10). To claim 3, the drive device (2) is composed of the drive shaft (10) and of the drive pinion (9) arranged at one end thereof. Further to claim 5, the drive shaft (10) can be turned inside a tubular sleeve (19) with the aid of a rotary knob (16) provided at its end remote from the drive pinion (9), from which sleeve (19) a support fork (4,5) protrudes forward underneath the drive pinion (9) and can slide under an edge (above and creating groove 3 as shown in Figure 7) protruding laterally from the upper end of the housing (6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Weissenfluh et al. Von Weissenfluh et al discloses that there is a toothed wheel at the upper end of spindle (7) being fitted with a separate crown wheel (8b) which can be brought into engagement with a drive pinion (9) belonging to the drive device (2), which drive pinion (9) can be turned via a laterally outward extended drive shaft (10). However, Von Weissenfluh et al does not teach that the toothed wheel being a crown wheel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the toothed wheel integral with the crown wheel, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Works*, 150 U.S. 164 (1893).

As to claim 4, Von Weissenfluh et al shows in figure 7 that the drive pinion (9) is slightly beveled at its front face.

Allowable Subject Matter

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ericson (USPN 4,396,374) is directed to the claimed subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Candice C. Stokes whose telephone number is (571) 272-4714. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Candice C. Stokes


CRIS L. RODRIGUEZ
PRIMARY EXAMINER